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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/514,033 | 02/25/2000 | Donald L. Brodigan | 1589 (USW0563PUS) | 7568 |
| 22193 | 7590 | 11/03/2006 | EXAMINER | |
| QWEST COMMUNICATIONS INTERNATIONAL INC LAW DEPT INTELLECTUAL PROPERTY GROUP 1801 CALIFORNIA STREET, SUITE 3800 DENVER, CO 80202 | | | SHANG, ANNAN Q | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2623 | |

DATE MAILED: 11/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/514,033

Applicant(s)

DONALD L. BRODIGAN ET AL

Examiner

Annan Q. Shang

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see Remarks, filed 10/02/06, with respect to the rejection(s) of claim(s) 1-11 under **Pinder et al (5,742,677)** have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of **Anderson et al (6,219,042)**. **This office action is made final.**

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Pinder et al (5,742,677)** in view of **Anderson et al (6,219,042)**.

As to claim 1, note the **Pinder** reference figure 1, disclose a method for providing personalized interactive programming over a data path, the data path extending between a service provider and a set top box (Terminal Unit or Home Communications Terminal 'TU' 16), the service provider being connected to a data network and having an address, the method comprising:

establishing a communication path (figs.1 and 2A-D, col.4, lines 25-66, col.5, lines 5-44, line 59-col.6, line 26) between a broadband digital terminal (Information

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Distribution Center 'IDC' 12 or Head-end 125 "a local distributor, col.5, line 59-col.6, line 26) and the set top box, the broadband digital terminal (IDC-12) being connected to a data network (Internet, WAN, public or private, switched or non-switched interactive data network, such as ATM, col.9, line 66-col.10, line 35) and the service provider (SP-14-1 to 14-n) broadcasting video through the broadband digital terminal to the set top box (col.4, lines 25-42), note that to initial transaction the SP broadcasts Messages (private key, address, logo and graphics data and the like), col.4, line 43-col.5, line 29) which enables the SP to communicate directly to TU-16 via addressed communications;

 sending a private data packet (Messages) in addition to the broadcast video from the SP, over the network (WAN or Internet) and through the broadband digital terminal to the set top box (TU-16), the packet containing application interface information (address, logo and graphics data and the like) for the service provider and containing the service provider address (col.4, line 43-col.5, line 29) and

 establishing an impulse pay-per-view communication path (col.5, lines 5-36, line 46-col.6, line 32, col.9, lines 5-46 and line 66-col.10, line 35) from the set top box through the broadband digital terminal and over the network to the service provider based upon the address to allow interactive programming using the application interface information between the service provider and the set top box to personalize the broadcast programming (col.4, line 43-col.5, line 36 and col.9, line 66-col.10, line 35), note that a virtual channel or path is established between the SP and TU or HCT-16 using the ATM network.

Pinder teaches where the service provider transmits messages containing their address, logo and graphics data and the like (private data packet) and establishes an IPPV path using the received data, but fails to explicitly teach where the messages includes broadcast video, etc.

However, note the **Anderson** reference figures 1-3, discloses a WebTV Internet terminal and transmits web pages with additional enhanced features, e.g. TV video, mail, favorites, etc., (col.2, line 48-col.3, line 12 and col.4, line 45-col.5, line 23)

Therefore it would have been obvious to one of ordinary skilled artisan to incorporate the teaching of Anderson into the system of Pinder to include, broadcast video, etc., with the private data packet as additional enhancement to the display terminal that entices the user to order IPPV video.

As to claim 2, Pinder further discloses where sending private data packet, is performed by inserting the private data packet between frames of a video transmission (col.7, lines 11-55).

As to claim 3, Pinder further discloses where the video transmission is prerecorded programming that is transmitted on demand (col.5, lines 37-col.6, line 26 and col.9, lines 3-46).

As to claim 4, Pinder further discloses where the video transmission is real-time programming (col.9, lines 3-46).

As to claims 5-6, the claimed "An interactive video/data system for interacting with destination address of a network..." is composed of the same structural elements that were discussed with respect to the rejection of claim 1.

As to claims 7-8, Pinder further discloses where the interactive video/data system comprises an optical network interface between IDC-12 and TU or HCT-16 (col.9, line 66-col.10, line 35) and further discloses a network interface device, such as a modem, between IDC-12 and TU or HCT-16 (col.9, lines 5-46).

Claim 9 is met as previously discussed with respect to claim 2.

As to claims 10-11 is met as previously discussed with respect to claim 1.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

White et al (6,804,825) disclose VOD methods and systems.

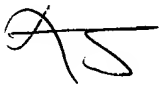
5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Annan Q. Shang** whose telephone number is **571-272-7355**. The examiner can normally be reached on **700am-400pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Christopher S. Kelley** can be reached on **571-272-7331**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the **Electronic Business Center (EBC)** at **866-217-9197 (toll-free)**. If you would like assistance from a **USPTO Customer Service Representative** or access to the automated information system, call **800-786-9199 (IN USA OR CANADA)** or **571-272-1000**.



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